



Limpopo SAPS take to the streets to protest against escalating crime against women.

Photo courtesy Google Images

Key facts

- Over a third (40%) of all sexual offences reported to SAPS during 2011-2012 period involved children and nearly half (48.5%) involved adult women as victims.
- Rape accounted for almost three-quarters of all sexual offences (74.5%) recorded nationally during the same period.
- In Limpopo, rape was the most dominant type of sexual offence with a 5% increase in reported cases from the year 2010/2011. Overall, Limpopo experienced a 16% increase in total sexual offences in the same period
- The number of registered names of sex offenders on the NRSO increased from 978 in 2011 to 2 340 in 2012
- Average conviction rate of sexual offences prosecuted at sites linked to TCCs, dropped from 63% to 60.7% in
- At the time of study implementation, there were 30 TCCs nationwide and four in Limpopo. Only two of Limpopo TCCs are fully operational.



I (Prudence) am a 22-year-old woman. On 31 May 2012 I was coming from Levubu to collect money from my mother's younger sister to buy some food. I took a taxi to Zwikwengani.

When I got to Vuwani taxi rank there were no taxis. I waited with others until it got dark. Around 6pm a taxi going to Tshakhuma passed by so we got into it. When I got out at the bus stop it was around 6:30pm and it was dark. Before crossing the road there, a taxi from Vuwani going to Thohoyandou stopped and a woman got out of that taxi. Suddenly the woman started to run away holding her handbag tightly and two men that had been standing next to the taxi chased after her. When I was about to cross the road I saw the men coming toward me saying, "Let's help her to carry her things."

One of the men pulled out a knife and pointed it at my chest while the other man took everything that I was holding and said, "We are not going to any house, we are going to the bush. Don't scream otherwise we will stab and kill you." I kept quiet because I was scared. They dragged me into the bush and said that they needed money. Because I didn't want them to steal it, I had already thrown it on the ground as we were walking. I gave them my handbag to search. When they found nothing, the one man said, "It will be better if I kill her." The other man said he wanted to rape me.

He told me to take off my clothes but I refused. I offered to take him back to where I dropped the money or take them to an ATM to withdraw money from my bank card. One of the men took the card but the other said to me again, "I want to rape you." He threatened me by saying, "Do I have to stab you to make you take your clothes off?"

I cooperated and took off my trousers. He laid me on top of my trousers and raped me. I begged him, "Don't ejaculate inside of me," and he said, "You don't tell me that! Are you scared of getting pregnant or getting diseases? It doesn't work like that." When he was done, he called the other man to also rape me. After the second man was done, he said he was going to find

the cash I'd thrown out on the road. As he left, he said if he did not find the money he would kill me and that if I tried to run away he would look for me until he found me. The one who raped me first raped me again. When he was done I asked to please go and relieve myself.

I grabbed my phone and ran. He was angry and chased after me with a knife. When he caught me he slapped me; I kicked him and we started fighting. He beat me on my face and strangled me. He put his knife to my throat and said, "I will kill you, even though it wasn't my first intention." He then grabbed me and took me back to where they had already raped me three times.

The other man returned and said I had no money on my bank card. He accused me of playing with them. They were going to kill me for that. The other man agreed and said I had to pay for trying to run away. They then both raped me again one after the other. That means the one who was holding a knife raped me three times and the other one raped me twice which means I was raped five times.

I ran to the nearest house and sent a please-call-me sms to my mother and aunt. When my mother arrived with the police, I started crying. The police made me feel bad, asking, "Where were you coming from at night? Were you not aware that it was getting late? Now see what these people have done to you." I tried to explain what had happened but they said I must go to Tshilidzini Hospital trauma centre. My neck was bruised and sore from when they strangled me and I had bitten my tongue while they beat me. My face was swollen. When we got there a policewoman took my statement and a doctor examined me. They told my mom to go home, but she refused and said she would sleep there on a chair. I slept at the trauma centre. A victim advocate woke me up in the morning and asked me to take a bath; she treated me very well.

Another police officer arrived to take my statement again, as he was supposed to be investigating the case. The following day the police came to my home

because I had heard from other girls that they knew the rapists. I remember them well. One of them had a dark complexion, short hair and wasn't very tall. I hadn't seen him before. He was wearing a black jacket and colour faded jeans and sneakers. The other man was tall with a dark complexion and was wearing a black jacket, orange t-shirt and dark trousers and takkies.

I was hurt when the police officer said there was no evidence, that many people can look similar, and even clothes can look the same. When I told them this new bit of evidence, they said I must go and ask around and pretend as if I love the tall guy so that the police can find him. They didn't write anything down. Since then the police have never called me or returned. After the incident, I became very scared, especially when I think that those guys might come for me at home. I am very scared if I hear a sound in the house, even if its afternoon. At night I would lie in bed awake. I'm scared to attend parties and visit friends or go to the shops in the dark. If I go to town I get scared. I am always alert and looking around. I feel as though I might see the two rapists again.

After what happened to me, the father of my child showed his support and love. He didn't want to leave me and he took time off from work to be with me. My family also stood by me and cared for me. I started spending more time at church so that I could take care of my soul. I lost hope of getting justice because the police never updated me of any progress. I still hate most men. I respond to them in anger and also get scared when I see people with similar features to the two men who raped me.

I received counselling at Tshilidzini trauma centre so then I felt freer and stood up as a woman. I also got support when the pastor from my church came to visit and prayed for me. It encouraged me to see that there is still love. Even the ward counsellor came to visit me and had time to talk to me. My friends have been supportive. I also found a support group where we talk about our experiences of rape. I learned that if somebody comes across a problem we need to help that person, as people have helped me.

Prudence's story typifies the type of daily and on-going ordeal faced by many women after they have been raped. Enduring rape, assault, scorn and robbery at the hands of two men, she does not receive much help from the police. Like many survivors of crime, Prudence loses faith in the justice system. She, however, finds solace in, and help from, a supportive family, the church, friends and Tshilidzini Trauma Centre.

This chapter explores the various legal provisions and support systems that exist to protect the rights of women and promote gender equality. Ensuring gender equality is vital to the development of a country.

Ratification to international and regional instruments

One of the indicators that measures political commitment to end VAW is a country's ratification and adoption of legal instruments and the existence of institutional systems which facilitate the elimination of VAW. South Africa is signatory to several conventions to combat gender-based violence, including the Convention on the Elimination of Discrimination against Women (CEDAW), the Beijing Platform for Action (BPA) and the protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The CEDAW is an international bill of rights for women. It describes what constitutes discrimination against women and sets an agenda to end all forms of discrimination against women. The South African Parliament ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women in 1995.

South African Declaration on Gender and Development

The heads of state of the Southern African Development Community (SADC), including South Africa, signed a declaration committing their countries

to embedding gender firmly into the agenda of their Programme of Action. This includes repealing and reforming all laws and changing social practices which subject women to discrimination. The declaration further commits to protect and promote the human rights of women and recognise, protect and promote the reproductive and sexual rights of women and the girl child as well as take measures to prevent and deal with the increasing levels of violence against women.

United Nations Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power

The declaration is based on the philosophy that victims should be adequately recognised and treated with respect and dignity. Victims can access all mechanisms of justice and should have prompt redress for the harm and loss suffered. They are also entitled to receive adequate specialised assistance in dealing with emotional trauma and other problems caused by the impact of victimisation.

Apart from the ratification of regional and international frameworks, an effective legal instrument to end violence against women demonstrates a government's commitment to uphold human rights. In South Africa, several laws address VAW in public and private life.

Domestic Violence Act (DVA)

The DVA No.116 of 1998 targets violence in the home. Such violence exists in a wide range of domestic relationships, including between individuals in a romantic relationship, whether married or not, family members, and persons residing, or who have recently resided, together in a common household. The DVA defines a "complainant" as an individual in a domestic relationship who is suffering harm.

The broad and all-encompassing definition of domestic violence to include all forms of relationships within a household potentially poses a challenge when analysing SAPS and court data to extract the true extent of VAW. One of the immediate and positive outcomes of this study has been a commitment from SAPS to include a relationship category in its crime registration database.

Sexual Offences Act (SOA)

In compliance with constitutional provisions, CEDAW and BPA obligations, South Africa introduced the Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 (Act No 32 of 2007) (SOA), which makes it an offence to have sexual intercourse with a girl younger than 16. SOA received approval from stakeholders as it indicated a commitment to be less limiting in the application of the law on sexual assault. It expands the definition of rape to encompass rape of men and use of any object in sexually assaulting another person. The framework also specifies legal procedures to ensure the protection of vulnerable witnesses within the criminal trial and the broader criminal justice process.

Although stakeholders welcomed SOA from its inception to the period under review, the true extent of sexual offences reported has been unclear because of the inclusion of sex work and pornography under this crime category. SAPS has again committed to addressing this challenge by separating sexual offences reported by survivors from sexual offences solicited by police action in its annual Crime Situation Report.

Evaluation of DVA and SOA implementation

Stakeholders have identified gaps in the implementation of these acts. One of the main issues is inadequate resourcing allocated towards their implementation. According to research undertaken by Tshwaranang Legal Aid Centre (TLAC), several police stations do not have the required resources to carry out the procedures stipulated by the acts. It is also evident that key players including police remain ignorant about the fundamental issues pertaining to these acts. When it comes to delegating responsibilities there is a loophole in the DVA which causes ambiguity. The DVA places responsibility on only one department, the SAPS, yet it places no corresponding legal obligation on other relevant stakeholders such as the DSD and the Department of Health (DoH). Although the DSD and DoH play ancillary roles and have policies within their departments to respond to victims of violence and sexual offences, there is a need for further legislative

enforcement in order for implementation to be effective (TLAC 2010).

Record keeping of domestic violence cases

All domestic violence incidents reported to police must be recorded in the Domestic Violence Register. At present no figures exist regarding the number of domestic violence cases reported to the service because there is no such crime as "domestic violence." Incidents of domestic violence have until now been included amongst figures relating to assault to inflict grievous bodily harm, common assault, rape, attempted murder, pointing of a firearm, etc. The introduction of this register will ensure that this system is altered.²¹

Policies

Service Charter and Minimum Standards for Victims of Crime in South Africa

In 2004, the cabinet approved a Service Charter for Victims of Crime in South Africa as well as Minimum Standards on Services for Victims of Crime. It is intended to assist in the implementation of the Victims' Charter. The Victims' Charter and Minimum Standards provide an important framework for the consolidation of all laws and policies in relation to the rights of and services provided to victims of crime and violence. It is intended that they promote excellence in service delivery thus promoting client satisfaction with the services delivered.²²

National Policy Statement for Victim Empowerment

These National Policy Guidelines provide the regulatory framework for promoting and upholding the rights of the victims of crime and violence in order to prevent re-victimisation within the criminal justice and associated systems. In addition, it provides a framework to guide and inform the provision of integrated and multi-disciplinary services aimed at addressing the diverse needs of victims of crime and violence effectively and efficiently.²³

Lawmakers developed the Integrated Strategic Framework for the Prevention of Injury and Violence (i.e. interpersonal violence) in November 2011. It incorporates a plan for response to violence. The framework development included a multisectoral approach with other national departments, provincial departments of health, civil society organisations and academic and research institutions, including the Medical Research Council. This strategy enhances the capacity to reduce the high burden of injury and trauma, especially from road accidents, interpersonal violence and violence against women and children. The technological and professional staff capacity of the forensic laboratories has been increased to support the justice system.²⁴

Public services

Several government departments and civil society organisations (CSOs) have created structures to provide services to survivors of VAW. Most government departments have been oriented towards response and support, while CSOs have created support and prevention campaigns. Client data is collected as a routine exercise whenever survivors access these services. Researchers obtained data on access to services for this chapter by liaising with respective departments and organisations. In instances where service providers did not make information readily available, the research made use of past annual reports and information from organisational websites. This chapter mainly focuses on the SAPS and DOJ&CD work in curbing VAW.

South African Police Services (SAPS)

According to the Domestic Violence Act (DVA) it is the responsibility of every member of the SAPS to avail him or herself at the scene of an incident of domestic violence in as little time as reasonably possible or when the incident of domestic violence is reported. They should then render such assistance

²¹ http://www.saps.gov.za/org_profiles/core_function_components/fcs/establish.htm

²² <http://www.npa.gov.za/files/Victims%20charter.pdf>

²³ <http://www.npa.gov.za/files/Victims%20charter.pdf>

²⁴ (Department of health report 2011-2012) http://www.doh.gov.za/docs/reports/annual/2012/Health_Annual_Report_2011-12.pdf

to the complainant as may be required in the circumstances. This includes assisting or making arrangements for the complainant to find a suitable shelter and obtain medical treatment if necessary.

An individual may lodge a complaint with the Independent Police Investigative Directorate (IPID) if they feel that any member(s) of the SAPS failed to comply with the provisions of DVA. Any interested persons, victims of domestic violence and non-governmental organisations may lodge the complaint. Some of the failures may include failure to:

- Effect arrest against the perpetrator;
- Assist the complainant to open a case, find a suitable shelter, obtain medical treatment, or to accompany the complainant to collect personal property and seize any dangerous weapon from the abuser;
- Advise the complainant of options, such as failure to advise the complainant to lay criminal charges or to apply for a protection order, or both; and
- Serve the respondent with a subpoena to appear in court.

Specialised units within SAPS

In order to better respond to VAW, SAPS has created specialised units whose sole responsibility is to address issues of domestic violence at police station level.

The Child Protection Unit

Police established this unit to prevent and combat crimes against children. It deals with cases of rape, incest and sexual exploitation among many others. Government has demonstrated leadership in ensuring that the constitution, legislation, policies and international instruments provide statutory protection towards ensuring a better life for children. The Children's Act of 2005 sets out the principles relating to the care and protection of children and defines related parental responsibilities and rights. It is important that children know and understand their rights. The act sets out general principles and promotes the best interests of the child.²⁵

In recent years police identified a need to expand the sensitive service rendered to children, to adult victims

of family violence and sexual offences. This led to the establishment of the Family Violence, Child Protection and Sexual Offences Unit (FCS). Its objective is to transform all Child Protection Units and establish FCS units, depending on available resources and the occurrence of crimes policed by the FCS unit.



Police woman at International Women's Day, South Africa.

Photo by Gender Links

Family violence, child protection and sexual offences (FCS)

The FCS unit's primary goal is to make the public aware of the existence of relevant crimes, the role of the public in preventing and combating these crimes and the role of the Child Protection Unit/FCS Unit. Awareness is fostered by multi-disciplinary meetings, media coverage and lectures and talks at schools, universities and church organisations. Members of the unit present these to people of all ages, ranging from children to adults.

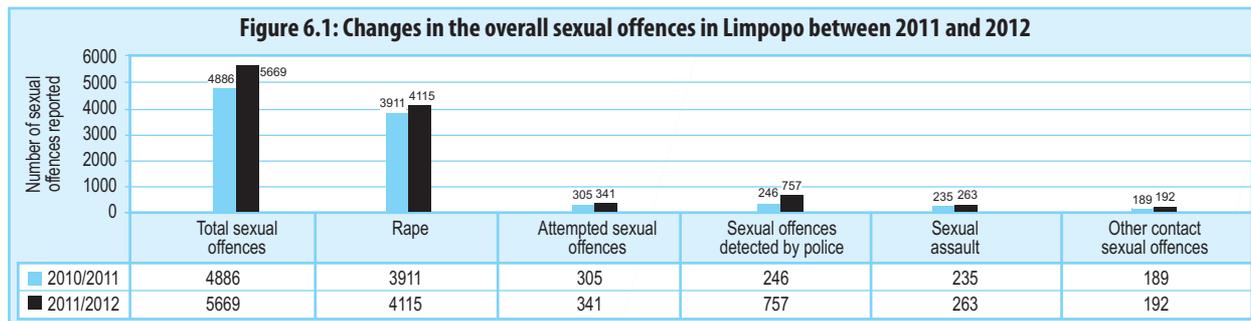
²⁵ http://www.saps.gov.za/org_profiles/core_function_components/fcs/establish.htm

FCS units have been reintroduced in all 176 SAPS clusters across the nine provinces. Police have placed 2155 detectives at these units and issued them with 1276 vehicles. Previously, the FCS units consisted of only 1864 detectives.²⁶ Frank et al (2009) conducted an assessment of FCS service provision in South Africa with the specific objective of assessing the impact of the restructuring process of 2006. The study found that restructuring had done little to improve service delivery to victims of violence. It identified several gaps, noting that the restructuring resulted in the placement of FCS staff in service-delivery positions and they had: (1) not been suitably trained, (2) were not suitably experienced, (3) did not undergo special screening or selection, (4) had not specifically elected to work on FCS cases and (5) did not have some of the basic requirements to undertake the job.²⁶

National prevalence of sexual offences against women and children based on SAPS statistics 2011/2012

The country's overall documented sexual offence rate decreased by 3.7% from 2011 to 2012. Rape, according to the new, more inclusive definition that covers vaginal, oral and anal penetration, accounted for three-quarters of all sexual offences (74.5%) recorded nationally. This crime decreased by 3% from the previous year (SAPS National Crime Statistics Annual Report 2011/2012). More than a third (40%) of all sexual offences involved children and nearly half (48.5%) involved adult women as victims.

Figure 6.1: Changes in the overall sexual offences in Limpopo between 2011 and 2012



Source: SAPS National Crime Statistics Annual Report 2011/2012.

Provincial

Figure 6.1 shows the different forms of sexual offences reported in 2012 in Limpopo. The number of cases reported varied among the different forms of sexual offences. Rape dominated with 4115 cases (73%) followed by Sexual offences detected by police, attempted sexual offences and sexual assault (SAPS National Crime Statistics Annual Report 2011/2012).

According to Figure 6.1, police logged a marked increase in sexual offences incidence detected by police, which rose by 208%. They also documented a 12% increase in the number of attempted sexual assaults and in other sexual offences, which increased by 1.6%. Overall, Limpopo experienced a 16% increase in total sexual offences (SAPS National Crime Statistics Annual Report 2011/2012).

²⁶ http://www.rapcan.org.za/File_uploads/Resources/FCS_report_text_web1.pdf

Table 6.1: Limpopo sexual offences incidence rates for females 2012

	Female population	Female population	Incidence females
Sexual assault	263	2 012 898	0.013
Other contact sexual offences	192	2 012 898	0.010
Sexual offences detected by police	757	2 012 898	0.038
Attempted sexual offences	341	2 012 898	0.017
Rape	4115	2 012 898	0.204
Total sexual offences	5669	2 012 898	0.282

The incidence rate for the adult female population is 0.28, which means that three in every 1000 females experienced some form of sexual offence in 2012. This finding is relatively low compared to figures obtained from the GL Limpopo survey.

The role of the Independent Complaints Directorate (ICD) in the implementation of the DVA

Since its inception, the Independent Complaints Directorate (ICD) within SAPS has been responsible for monitoring the implementation of the DVA. Any interested persons, victims of domestic violence and non-governmental organisations could lodge a complaint with the Independent Police Investigative Directorate (IPID) if they felt that any member(s) of the SAPS failed to comply with the provisions of DVA. Such groups lodged various types of non-compliance cases, including but not limited to: failure to arrest the alleged transgressor; failure to open a docket and refer the matter to the prosecution; failure to advise complainants of options (e.g. to lay a criminal charge or apply for a protection order or both); and failure to keep a copy of the protection order after it had been obtained from court. However, as the IPID Act, Act 1 of 2011 came into effect on 1 April 2012, the IPID no longer has a mandate to deal with any domestic violence related non-compliance matters. This now falls under the Secretariat for Police.²⁷

National

The ICD over the years experienced constant challenges in implementing the DVA. According to its last report to the parliament, its major challenge involved maintaining an acceptable level of regulatory compliance in terms of administrative abilities and record keeping in line with the DVA and National Instructions.

Nationally, the ICD received a total of 67 cases of alleged non-compliance with the DVA from all provinces for the period July 2011 to March 2012. Most non-compliance matters occurred in the Western Cape.



A policewoman attends a take back the night march in Johannesburg in 2010.
Photo by Colleen Lowe Morna

²⁷ http://www.ipid.gov.za/documents/report_released/dva_reports/2010-2011/ICD%20-%20DVA%20%20July%202011%20-%20March%202012.pdf

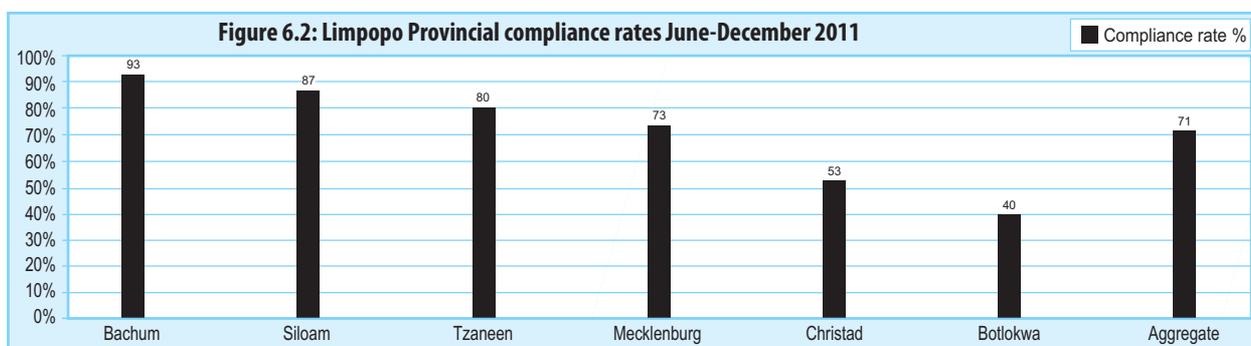
Provincial

Limpopo received no complaints of non-compliance with the DVA and SAPS received no application for exemption for the period July 2011 to March 2012. During that same period the ICD either organised or attended 28 awareness campaigns at which its members presented on the ICDs mandate and DVA as well as its new mandate as IPID. Community members attended these campaigns.

The Limpopo ICD provincial office audited some police stations to determine the level of compliance with

the DVA and the National Instruction. Part of the audit included:

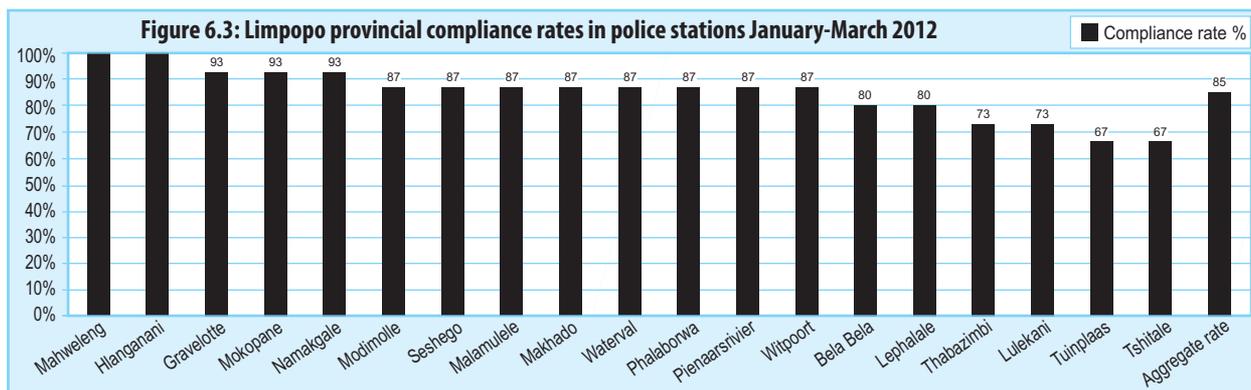
- An inspection of the SAP 508(a) and (b) registers; ensuring the Community Service Centre had copies of the DVA available;
- Ensuring that police had a list of service providers in the event that a victim of domestic violence needed one; and
- Auditors inspected victim-friendly facilities to ensure police could deal with matters of domestic violence.



Source: Department of ICD DVA Report: July 2011-March 2012.

Figure 6.2 shows the compliance rates of the six police stations audited between June and December 2011 in Limpopo. At 93%, Bachum recorded the highest rate of compliance followed by Siloam at

87%, Tzaneen 80% and Mecklenburg at 73%. Ohristad and Botlokwa police stations recorded the lowest compliance rates at 53% and 40% respectively.



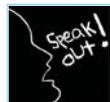
Source: Department of ICD DVA Report: July 2011-March 2012.

Figure 6.3 shows results from audits undertaken between January and March 2012 in Limpopo. Auditors assessed 19 police stations during this period. Of these only two, Mahweleng and Hlanganani, fully complied with the DVA and National Instruction.

Some of the findings of non-compliance included:

- No Domestic Violence Register, SAPS 508(b) in CSC;
- No SAPS forms 508(a) available in CSC;
- Responses to domestic violence incidents not recorded on SAPS forms 508(a);
- The SAPS 206 of members not maintained;
- Monthly procedures of File 39/4/2/3 on DVA incidents not maintained;
- Procedures of SAPS 10 on DVA not thoroughly maintained;
- Protection orders not served (no zero outstanding protection orders);
- Copies of protection orders received not filed;
- Copies of warrants of arrest received not filed; and
- Copies of warrants of arrest received not filed.²⁸

Qualitative excerpts on SAPS response from survivor accounts



On 14 August 2012, I (Thandi) was watching TV at home with my child around 7pm. While I was sitting there my boyfriend Thabo arrived home and started talking to our child. While we were still sitting there, Thabo got a message on his phone. He said he was going out and would be back. After some time I went out to buy airtime at the spaza shop. When I got there I found Thabo standing at a rental house with another lady that I knew.

I asked Thabo what he was doing there so late at night. He said, "You don't have to ask me what I want, in fact you are disturbing me and I will beat you." I then went back home and I just sat there. He came back and he started shouting and then I shouted back at him. He took his phone and showed me that he has a woman who is pregnant and he wants to marry her. I took that phone and

broke it. He also took mine and did the same thing. He told me I should leave the house and leave his child. I told him I can't go and leave my child behind. He shouted, "I didn't even marry you - there's another woman I want to marry."

I left and went to his sister Shawn's house and told her that Thabo said I should leave and it's late at night and I don't know what to do. Shawn gave me her phone to call the police. I told the police that I was chased away by my man and it's dark and I don't know what to do. The police said I should wait at the café and they would come and fetch me there. They didn't take long to arrive and said I should get into the van and they would take me to Tshilidzini Hospital's trauma centre where I could sleep for the night. When I arrived there I explained what had happened and they prepared food for me and my child. They said that the next day they would call a van to take me to my father's home and they wrote a letter to say that on Monday I should come back to apply for a protection order.

I told my father that Thabo chased me out of our house and so my dad said I should come back home and stay with them. My father said, "It's no problem."

On Monday 16 August 2012 I woke up in the morning and I went to the police to apply for a protection order and to ask for them to help me to collect my belongings from the house. They wrote a protection order, gave it to me and said Thabo should sign it. They called a police van and took me to Thabo's house but we couldn't find him there.

On 17 August 2012 I phoned my aunt and asked her for money to hire a car. My aunt said that there is no problem, I can get a car and fetch everything and she would pay for it. I went to Thabo's place in the car, packed all of my belongings and then left. When I got home I found my aunt waiting for me and she paid the driver. She told me not to cry

²⁸ http://www.ipid.gov.za/documents/report_released/dva_reports/2010-2011/ICD%20-%20DVA%20July%202011%20-%20March%202012.pdf

and not to go back again because Thabo might end up killing me. She said I should go back to school because marriage won't give me anything and I agreed with her.

Since we separated I feel relieved because I no longer have a problem. I have learned a lot and I wouldn't get into that kind of relationship again because he didn't want me to get a job. He said he doesn't like working women. He didn't want me to have friends. He would say that a married woman doesn't have friends. He would say that I don't have to leave the yard because friends would gossip and they break up families.

While Thandi's story is positive, other women wrote about being unsatisfied with the police response they received.

Lorain said: "The case didn't progress because my husband and I were insulted by a Shangaan police officer from Sibasa. They told us there was no case because my husband didn't come with a wife from his country and that they don't deal with things that happen at the shebeens. So the case ended. Even though I have since seen the man who raped me, I am not interested in talking to him."

Angel Keketso said: "In the end he wasn't arrested. The case was stolen by someone at the police station. Even now he is still at home. When I went to the police station to ask about the case the police said: 'Your docket is not available maybe someone took it.'"

National Department of Justice and Constitutional Development (DOJ & CD)

The *Department of Justice and Constitutional Development* is committed to supporting and promoting the rights of victims of domestic violence, especially women, children and the elderly, through the courts and criminal-justice processes. The department assists victims through the Victim Empowerment Programme (VEP), led by the *Department of Social Development*, which aims to improve victims' circumstances and quality of life.

DOJ&CD initiatives to respond to GBV related matters include the following:

- Development of JCPS Domestic Violence Strategy to improve coordination of services (the draft strategy is in the process of submission and approval by the JCPS Cluster Directors-General);
- Development of Prevention Strategy;
- Capacitating courts, especially large courts such as Johannesburg Family Court;
- Development of Braille awareness-raising material; and
- Specialised training with Justice College and the NPA at domestic violence sections.

Justice, Crime Prevention and Security (JCPS) cluster

The Justice, Crime Prevention and Security (JCPS) cluster is mandated to achieve Outcome 3 of the Priorities of Government - namely keeping all people within South Africa safe and implementing various governance structures to address the issue of safety, including VAW.²⁹

Table 6.2: Structure of the national JCPS cluster

Structure	Chair
JCPS Domestic Violence Task Team, chaired by the Department of Justice and Constitutional Development	DOJ&CD
Inter-sectoral Steering Committee on Sexual Offences	DOJ&CD
Interdepartmental Management Team on Sexual Offences	National Prosecuting Authority (NPA)
Victim Empowerment Management Forum	National Department of Social Development (DSD)

²⁹ <http://www.pmg.org.za/print/report/20120215-department-justice-constitutional-development-implementation-domestic>

After noting the lack of a coordinated strategy between JCPS cluster departments to implement and monitor the DVA, the cluster established the JCPS Domestic Violence Task Team to draft, implement and monitor the integrated Domestic Violence Strategy. Thus the DOJ&CD has been mandated by the JCPS to chair this JCPS Domestic Violence Task Team. The team consists of the DOJ&CD, NPA, Legal Aid SA, SAPS, Social Development, Health and the judiciary. Departments of Women, Children and People with Disabilities; COGTA (NHTL), Transport and Housing also play ancillary roles.



South Africa established Sexual Offences Courts to respond to the country's high number of rape cases. *Photo by Trevor Davies*

National Sexual Offences Courts (SOC)

The South African Parliament raised concerns in 2012 about the demise of Sexual Offences Courts (SOC) in South Africa. The country established the first specialist SOC in 1993 in Wynberg, Cape Town, as a pilot project aimed at responding to and preventing the soaring figures of rape cases, as well

as acting as an intervention mechanism against secondary victimisation experienced by victims when they consult the criminal justice system. The pilot project proved a success as it maintained a conviction rate of 80% within one year. A decade later, the NPA and the DOJ&CD agreed on a national strategy to roll out specialised SOCs dealing with both adults and children.

By the end of 2005, South Africa had 74 courts, resulting in the finalisation of more cases, improved handling of victims, improved cycle times and improved conviction rates. Lawmakers established SOCs to provide a dignified and speedy court process for women and children. In 2005, the SOCA unit developed a plan for managing the courts. However, that same year the then minister of justice and constitutional development called for a hold on the establishment of all dedicated courts, including SOCs, on the basis that dedicated courts placed too much pressure on resources and forced magistrates to specialise (Shukumisa 2013). Nine SOCs, however, continued to operate in various areas and regional court presidents dedicated a number of courts to prioritising matters related to sexual offences.

In his budget speech delivered in May 2012, Minister of Justice and Constitutional Development Jeff Radebe announced his intention to establish a task team to investigate the viability of re-introducing the SOCs in South Africa. Through the directorship of the DOJ&CD, lawmakers established the Ministerial Advisory Task Team on the Adjudication of Sexual Offences Matters (MATTSO). The MATTSO thus undertook a study that involved empirical investigations, interviews and on-site assessment of a sample of courts that previously operated as blueprint compliant SOCs but currently function as dedicated SOCs. The team identified some of the challenges faced by the SOCs:

- The lack of a specific legal framework to establish these courts;
- The lack of buy-in from other stakeholders due to inadequate consultation;
- The lack of a dedicated budget, which resulted in inadequate resourcing of these courts. The NPA primarily depended on donor funding;

- The lower visibility of these courts in remote areas has been construed as a violation of the Constitution; and
- The lack of a monitoring and evaluation mechanism developed specifically for the management of these courts.

Overall, the report makes a clear case for re-establishing SOC's in South Africa provided these gaps can be addressed. The team also recommended an SOC Model which sets out standard specifications of the operations within the SOC's (DOJ&CD-MATTSO, 2013). The courts will feature a proper screening process to identify cases that fall within the sexual offences category, a special room where victims will testify, a private waiting room for adult witnesses, a private waiting room for child witnesses and victim support services. It will also include a designated court clerk and a court preparation programme for witnesses to prepare for court and to provide debriefing after they have testified.³⁰

The team also recommended amending the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 to provide for an enabling provision which will allow for the re-establishment of Sexual Offences Courts, something the department has already initiated (DOJ&CD-MATTSO, 2013).

The South African Government has already identified 57 regional courts that can operate as SOC's once they have been upgraded and equipped with modern technology. Lawmakers plan to reintroduce 22 of these courts by the end of the 2013/14 financial year, with specially trained officials and equipment to reduce the chance of secondary trauma for victims.³¹

National Prosecuting Authority

Creation of child friendly courts

In showing commitment to the creation of specialised services in sexual offences and child friendly courts, the department of justice committed funds to the progressive procurement of audio-visual court

equipment and the establishment of witness testifying rooms. By the end of the year 2011/2012 it supplied the following items:

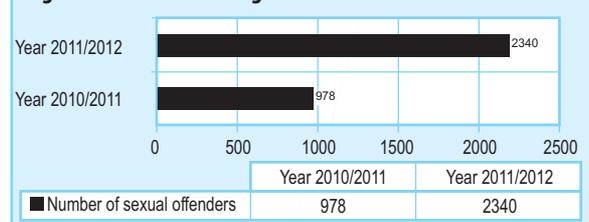
- 335 closed-circuit television cameras;
- 49 one-way mirrors;
- 225 child witness testifying rooms; and
- 195 anatomically correct dolls. The department purchased these dolls to assist child witnesses of sexual offences to testify in court with the demonstrative expression of their personal experiences using the dolls (DOJ & CD annual report 2011-2012).

Every magistrate's court in South Africa has a children's court. This means the country has almost 737 children's courts (FAQ Children's Act 2005). According to the Lower Courts Fact Sheet (2013), Limpopo has 88 magistrate courts, which means it has 88 children's courts.

National Register for Sex Offenders (NRSO)

The National Register for Sex Offenders is a database containing the particulars of those persons convicted of any sexual offence against a child or a person who is mentally disabled or who is alleged to have committed a sexual offence against a child or a person who is mentally disabled in respect of whom a court has made a finding and given a direction that the offender is mentally unfit to stand trial. Its aim is to protect children and the mentally disabled against sexual offenders by establishing and maintaining a record of persons who have been convicted or alleged to have committed sexual offences.³²

Figure 6.4: Number of registered sexual offenders: National



Source: DOJ & CD annual report 2011-2012.

³⁰ <http://www.southafrica.info/services/court-070813.htm#.UgjpV6CfZc8#ixzz2bph1n9TQ>

³¹ <http://www.southafrica.info/services/court-070813.htm#.UgjpV6CfZc8#ixzz2blNPpG8L>

³² Source: <http://www.justice.gov.za/vg/nrso.html>

Figure 6.4 clearly shows an increase in the registration of offenders. During 2011/12, the registrar received 39 684 purified names of historical convictions from the SAPS in the very first submission of historical convictions made to the registrar. It is therefore considered to be a huge breakthrough in the registration of this data. Unfortunately, the registrar did not receive data from other sources that had been identified (DOJ & CD annual report 2011-2012).

Access to services in the “I” Stories

Out of the sixteen female survivors who participated in the “I” stories, 15 reported their cases to the police. They received a variety of responses. Police ignored the majority of these cases, leaving the women frustrated when their case stalled in the system. In some instances police lost dockets, in others police released the perpetrator for no apparent reason. In some cases police blamed the victim for the crime or abuse which had befallen her. Despite such negative feedback, it is commendable that a significant number of women reported that police arrested their perpetrators and provided help. Police should also be given credit for the number of times they referred women to the Tshilidzini TCC.

Hospital: Fourteen (88%) of the 16 women who participated in the project went to hospital for treatment or assessment. Seventy-nine percent of the women who visited the hospital after experiencing any form of GBV received counselling. Medical staff treated those who had been injured or raped.

Protection order: Only two women out of the seven who experienced IPV sought a protection order. Courts: Only three (19%) cases went to court. A judge sentenced one of the perpetrators to eight months in prison for attempted rape. Another case ended mysteriously and the courts sent the perpetrator in a third case to prison for another crime.

Conclusion

This chapter has shown that South Africa has implemented progressive and comprehensive laws,

policies and support systems to respond to VAW. Some of the regional and international instruments adopted by the country include the CEDAW, SADC Declaration on Gender and Development and the UN Declaration of Basic Principle for victims of Crime and Abuse of Power. South Africa has localised these instruments, giving rise to the DVA, Sexual Offences Act, Employment Equity Act, Service Charter and Minimum Standards for Victims of Crime in South Africa and the National Policy Statement for Victim Empowerment, all of which work towards elimination of GBV in the country. In addition, lawmakers have oriented several government departments towards response and support.

Lawmakers have also created specialised units to respond to VAW. The SAPS, Department of Health, Department of Justice and Community Development and the DSD, among many others, have come together to eliminate GBV and provide support to victims.

However, several setbacks affect the country's progress towards achieving the SADC Protocol target of halving GBV by 2015, despite the presence of these instruments and specialised units. GBV remains a serious problem that is widely underreported. The police and medical data which is available presents just the tip of the iceberg. A gap also exists in data on GBV from the Department of Health, the SAPS and DOJ&CD because it is not disaggregated by age, sex or type of VAW. The data also does not reflect those cases which have been withdrawn. As such, it remains difficult to know to what extent GBV survivors use these services.

Other challenges include a lack of dedication and efficiency on the part of key players in the criminal justice system. This is illustrated in several personal accounts written by survivors who detail negative experiences with the police. Based on some of these accounts, patriarchal attitudes continue to undermine efforts to respond to VAW. These attitudes prevent some women from making use of the legal system, thus creating a vicious cycle.